

**DEPARTMENT OF STATE REVENUE****LETTER OF FINDINGS NUMBER: 01-0250P****Individual Income Tax****For the Calendar Years 1997 and 1998**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE(S)****I. Tax Administration— Penalty**

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer's representative, in a letter dated September 18, 2001, protested the penalty assessed. Taxpayer states the liabilities were generated from an IRS audit that disallowed a Net Operating Loss carryback amount and the original tax was paid entirely and timely. The taxpayer filed amended returns with the Indiana Department of Revenue that the Department refunded in good faith. After the Internal Revenue Service notified the Indiana Department of Revenue of its disallowance of amended returns, the Department billed the taxpayer. Taxpayer did not notify the Department of the IRS denial.

**I. Tax Administration— Penalty****DISCUSSION**

Taxpayer states that the liabilities were associated with an application for refund that was later denied. The Indiana Department of Revenue issued refunds for both years on October 25, 2000 based upon taxpayer's amended returns. The Department was later notified by the IRS that the amended returns were disallowed and billed the taxpayer for the monies refunded earlier plus penalty and interest.

Taxpayer failed to notify the Department of the IRS denial and has not provided reasonable cause to allow the Department to waive the penalty.

**FINDING**

Taxpayer's protest is denied.